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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re E.O., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

E.O.,

Defendant and Appellant.

E061034

(Super.Ct.No. RIJ108564)

OPINION

APPEAL from the Superior Court of Riverside County. Jacqueline C. Jackson,
Judge. Affirmed.

Law Office of Robert McLaughlin and Robert McLaughlin, under appointment by
the Court of Appeal, for Defendant and Appellant.

Gregory P. Priamos, County Counsel, and Julie Koons Jarvi, Deputy County
Counsel, for Plaintiff and Respondent.

I

INTRODUCTION

On July 5, 2012, the Department of Public Social Services (the Department) filed a Welfare and Institutions Code¹ section 300 petition as to three-year-old E. On March 27, 2014, at the section 366.26 hearing, mother asked the court to apply the benefit exception to adoption, as set forth under section 366.26, subdivision (c)(1)(B)(i), and order a less permanent plan than adoption. The court declined to apply the benefit exception, terminated mother's parental rights, and placed E. for adoption.

On appeal, mother contends that the juvenile court erred in refusing to apply the benefit exception under section 366.26, subdivision (c)(1)(B)(i). For the reasons set forth below, we shall affirm the juvenile court.

II

STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

A. *Pre-detention*

On April 24, 2012, the department received a 10-day referral with allegations of general neglect. It was reported that mother ran to a neighbor's home with E., age 3. Mother's friend, Skipp, was drunk and followed mother while screaming and yelling at her. Skipp broke a window and was taken to jail. Mother reportedly had smoked marijuana.

¹ All statutory references are to the Welfare and Institutions Code unless otherwise specified.

Mother left a message for the social worker indicating that she left E. with her pastor and his wife, Mr. and Mrs. F. According to Mrs. F., mother asked her to take care of E. and mentioned that she wanted the pastor and Mrs. F. to adopt E. Mrs. F. informed the social worker that mother appeared disheveled, was acting erratic, and had rapid speech. E. was dirty and dressed in soiled clothing.

On May 25, 2012, an immediate response referral was generated with allegations of sexual abuse and caretaker absence. Mother told Mrs. F. that she was concerned that E. was sexually abused because she masturbated. Mrs. F. later reported that she observed E. masturbating.

On May 30, 2012, the social worker spoke with mother. The social worker asked mother to go to her psychiatrist for a follow-up examination. Mother reported that she took about six different medications, but she could not recall the names of all of them. Mother later listed 10 different medications she was taking. She also stated that she was having some medical problems and would be in the hospital for a long time.

The social worker went to the home of Mr. and Mrs. F. on May 30, 2012. E. was appropriately dressed and appeared comfortable in their home. Mr. and Mrs. F. informed the social worker that mother had previously mentioned having someone adopt E. on at least two occasions. E. never asked about mother. When E. had a visit with mother earlier in the week, E. told Mrs. F., “don’t make me go home, make me stay here.” E. stated that she did not like Skipp. Mrs. F. reported that there were several occasions where E. stated that she did not want to see or talk with mother.

According to mother, Skipp was E.'s paternal uncle. Father was incarcerated. Mother denied being romantically involved with anyone, including Skipp. Mother resided in the same home with Skipp; they each had their own room.

Mother admitted that she made statements about giving up E. for adoption, but stated that she did not want to give her up. Mother stated that she was not thinking clearly when she made the recent statement to Mrs. F. Mother reported that she sometimes said things she did not mean.

On June 14, 2012, a meeting was held. It was decided that E. would be placed with her maternal great aunt under legal guardianship. Subsequently, mother called the social worker and stated that she no longer agreed with this arrangement. The maternal great aunt was having difficulty with mother. Mother yelled outside the apartment demanding that she give E. back; mother would call and threaten the aunt. Therefore, due to mother's harassment and threatening behavior, the maternal great aunt was no longer willing to provide care for E.

Thereafter, it was decided that E. would be taken into protective custody. On the way to her placement, the social worker asked E. if she wanted to see mother. E. responded, "No." When asked if she wanted to live with mother, E. stated that she did not want to see her.

B. Detention

On July 2, 2012, the Department took E. into protective custody due to allegations of mother's substance abuse and mental health problems. J.J. (father)² and mother are the parents of then three-year-old E.

Mother had a long history of mental illness. She "failed to benefit" from the Department's pre-placement services, "including a safety plan which included voluntary placement of the child while the mother stabilized her mental health." Mother had three older children involved in the dependency court. One child was placed with his non-offending father. Mother's parental rights to the children were terminated in 2007; the children were adopted. Mother also had "an extensive criminal history." Father was incarcerated in state prison.

In 2009, the Department took E. into protective custody when she was born. The juvenile court detained E. and placed her with mother in a sober living home. The court subsequently sustained jurisdiction and provided mother with reunification services. At the six-month review hearing, the court found that mother was "doing well" in her case plan and terminated jurisdiction.

On July 5, 2012, the department filed a juvenile dependency petition under section 300, subdivisions (b) and (g). In the detention report, the Department reported that E. was in substantial danger in mother's care:

² Father is not a party to this appeal.

“The mother has extensive Department history and has had three of her children adopted due to failing to complete services. At this time, it appears that the mother is unable to meet the needs of her child due to her ongoing mental health problems and medical issues. The mother lacks parental insight and does not take full responsibility for her actions. The mother showed irresponsible behavior by not addressing and or completing necessary requirements in order for her to receive assistance through county sponsored programs. There is concern the mother’s poor decision making skills will continue to put her child at further risk. The mother has three dependencies through the Department, but appears not to have benefited from previous services. [Mother’s] current diagnosis of Post Traumatic Stress Disorder, depression, anxiety disorder, instability, and erratic behavior places her child at substantial risk. On numerous occasions the mother has sought people to adopt her child, due to her inability to care for her due to ongoing mental health problems.”

On July 6, 2012, the court detained E. and allowed mother weekly, supervised visitation.

On July 16, 2012, mother denied having any Native American ancestry. On August 1, 2012, father also denied having Native American ancestry.

C. Jurisdiction/Disposition

On August 10, 2012, the department filed its jurisdiction/disposition report. It recommended that the court continue the hearing for thirty days “to allow for the results” of father’s paternity test. E. was placed in a licensed foster home.

In the report, the department discussed the family’s risk factors:

“A primary concern for this family is the mother’s mental health issues. Several interventions occurred to prevent the removal of [E.] from [mother] but were unsuccessful. Although, it appears that the mother is trying to make changes in her life, she has not taken any responsibility for her child’s removal from her care. The mother has threatened to kill not only herself but family members as well as recent as July 12, 2012. . . . [Mother] has admitted to multiple mental health diagnoses, including anxiety, depression and PTSD. . . . [¶] [Mother] is also self medicating with marijuana, which she does not have a medical marijuana card, which would allow her to legally use marijuana.”

Mother and E. participated in weekly supervised visits at the department’s office. The visits went well, and mother and E. appeared to enjoy their time together. They also had regular telephone contact with each other.

The department recommended that the court deny mother reunification services, pursuant to section 361.5, subdivisions (b)(10) and (b)(11), due to mother’s failure to reunify with E.’s older siblings. The department stated:

“This family was brought to the attention of the Department and the Court due to an unresolved history or mental illness. Several interventions occurred to prevent the removal of E. from [mother], but were unsuccessful. . . . [Mother] has an extensive history of substance abuse and although she has sought treatment in the past, she has failed to benefit from the coping skills obtained in treatment. [Mother] has admitted to multiple mental health diagnoses, including anxiety, depression and PTSD. It is believed that the mother has more mental health issues then [sic] what she is admitting to, which is

based on the [sic] all the medications that the mother is currently taking. . . . [¶] . . . The mother has failed to reunify with three of her children, resulting in her parental rights being terminated. This is the second dependency matter for [E.] . . . [E.] deserves to have permanency in her life and not be subjected to continued acts of neglect by her mother.”

In the addendum report filed September 12, 2012, the department recommended that the court sustain the dependency petition, deny reunification services to father and mother, and set a section 366.26 hearing. The department reported that mother tested positive for marijuana and barbiturates in September 2012. Visitations between mother and E. were going well; E. appeared happy in mother’s presence.

On September 17, 2012, the court ordered mother to submit to two psychological evaluations.

In an addendum report dated October 18, 2012, the department noted that mother continued to visit with E. once a week, and the visits went well.

In a third addendum report filed December 6, 2012, the department continued to recommend that the court sustain dependency jurisdiction and deny both parents reunification services. In December 2012, mother tested positive for marijuana and barbiturates again.

On December 7, 2012, mother completed a psychological evaluation with Dr. Edward Ryan. Dr. Ryan reported that mother has a very low level of probability of benefitting from services. Mother “has failed to benefit from extensive services in the past and shows low motivation for benefitting from services in the present. The problems and issues in the present matter have been extant in her life as an adult for 20 years and

her level of functioning has not changed significantly during that period of time. The issues outlined above require significant time and effort that extend beyond the purview of law and expectancy for significant change. Under those circumstance [sic], and considering the needs of a very young child, my recommendation is that services not be provided.’’

On December 11, 2012, mother indicated her willingness to relinquish her parental rights. She also failed to attend a Christmas visit with E.

On January 17, 2013, the juvenile court sustained the dependency petition, declared E. a dependent child, removed E. from the custody of father and mother, denied reunification services to both parents, determined the Indian Child Welfare Act was inapplicable, and set a section 366.26 hearing.

D. Section 366.26 Hearing Report

On May 2, 2013, the department prepared a section 366.26 hearing report. It recommended that the court continue the hearing for 120 days to enable the department to complete the assessment of E.’s paternal aunt and uncle for possible placement, or to locate an appropriate adoptive home.

The 366.26 report stated that E. was placed in a licensed foster home on March 1, 2013, after her initial caregiver relocated from California. Mother visited regularly with E. and acted appropriately.

E. was in good physical health with no apparent indications of developmental delay. She was not receiving mental health treatments but the department noted “some

concern about [E.'s] sexual acting out.” The department opined that E. was “young and adoptable[,]” but did not place her in a prospective adoptive home.

In the report, the department concluded that mother had failed to address the issues that brought E. to the court’s attention, mainly substance abuse. Therefore, “it would not be safe to return the child to the mother’s care.”

On August 30, 2013, the department prepared a second section 366.26 report. It recommended that the court determine adoption to be E.’s appropriate permanent plan and continue the hearing 120 days for the department “to complete the Adoption Preliminary Assessment of the child’s paternal aunt and uncle.”

The department placed E. with her paternal aunt and uncle on May 29, 2013; they were willing to adopt her. E.’s caregivers ensured that her medical and emotional needs were met. According to the department, their home was the “most appropriate placement for the child as she continues to receive appropriate care.”

E. continued to exhibit good health and to meet her developmental milestones. She, however, required “around the clock supervision due to the tendency to act out sexually.” Her behavior was affecting the caregiver’s three-year-old child. E. was referred to therapy.

On August 21, 2013, mother told the department that she had relocated to San Diego and was living in a transition home. She was taking medication for depression; looking for a job; and looking to complete her A.A. degree at a local community college.

Mother visited with E. on a regular, monthly basis. E.’s caregivers have supervised the visits and reported that they have gone well. Mother acted appropriately

during the visits. On August 18, 2013, the caregiver reported that E. acted out sexually after visiting with mother. The caregiver stated that the incidences of sexually acting out seemed to be triggered by visits with mother.

In the report, the department opined that mother failed to address the issues that brought E. to the court's attention.

On September 27, 2013, the department moved E. from her placement in San Diego to a foster home in Riverside. Mother continued to reside in San Diego. Mother, however, maintained her visits with E.

On December 23, [2]013, the department placed E. with her prospective adoptive parents. On January 8, 2014, the department filed an addendum report, asking the court to continue the section 366.26 to finalize the preliminary adoption assessment for E.

On November 8, 2013, mother enrolled in a residential 12-step drug and alcohol treatment program called Kiva. Mother participated in all the programs and activities. She also had negative drug tests. Mother also participated in parenting education programs.

In the report, the department stated that mother had failed to address the issues that brought E. to the dependency court, namely substance abuse. Mother also admitted to multiple mental health diagnoses. The department, therefore, concluded that "it would not be safe to return the child to her care."

On February 18, 2014, the department filed an addendum report recommending the court terminate mother and father's parental rights and place E. for adoption. E. was placed in a "fully approved adoptive home." The department reported that E. was doing

well in the placement and had formed a strong bond between E. and her prospective adoptive parents. Moreover, “the family is committed to adopting the child and has a fully approved adoptive home study The likelihood that the child will be adopted once parental rights have been terminated is extremely high.”

The department filed a post-permanency status review report on February 28, 2014; it recommended that the court find adoption to be the appropriate permanent plan for E.; she completed therapy to address her inappropriate sexual behavior. Moreover, her caregivers did not notice any sexual acting out by E.

At the time of this report, mother lived in a transitional home in San Diego. She was on a case plan with the San Diego Juvenile Court “on a dependency case as to her child, Asa [R].”

On March 13, 2014, the department filed another addendum report, recommending the court to terminate mother and father’s parental rights and place E. for adoption.

The report stated that on March 7, 2014, the department contacted the Kiva program. Mother’s treatment counselor told the department that mother left the program on January 1, 2014. Mother “failed to follow through with the program and discharged herself without completing the 4-6 months program.”

That same day, the department contacted mother’s social worker in San Diego, Agnes Cole. According to Cole, mother went to Riverside in November and “relapsed in her alcohol usage.” When mother returned to San Diego, she checked herself into the Kiva program. Ms. Cole reported that mother lived in a sober living facility in San Diego while completing her case plan activities that include “parenting, substance abuse

treatment and testing.” Moreover, mother visited with Asa on a weekly basis. Ms. Cole planned to recommend an additional six months of services for mother.

Mother confirmed that she relapsed in November, 2013, with her use of alcohol. She left the Kiva program because it “would not allow her to attend to her other businesses such as going to Court, visiting with her son . . . she is currently in Parent care Family Recovery Center in East San Diego for substance abuse. She is also attending therapy.”

E. Mother’s Section 388 Petition

On March 13, 2014, mother filed a section 388 petition, asking the court to modify its January 17, 2013, order denying her reunification services and setting a section 366.26 hearing. Mother asked the court to provide her six months of reunification services and to “liberalize visitations” with E. Mother alleged that her circumstances had changed since the court order because she “substantially participated in services upon her own initiative and through services offered through a San Diego dependency case. Mother attended parenting classes, substance abuse classes, relapse prevention, attends 12-step meetings, attends DV classes, has been off prescription meds for a year, has not used marijuana in over six months, has a sponsor, submitted to drug testing, and participated in vocational training.” Moreover, mother claimed that the change would be in E.’s best interest.

F. Section 388 and Section 366.26 Hearing

On March 27, 2014, the juvenile court held a hearing on both sections 388 and 366.26. Mother’s counsel requested a continuance of the section 366.26 hearing because

of the pending dependency proceeding in San Diego regarding E.'s sibling, Asa. The court denied mother's motion and stated that its indicated ruling was to denying the section 388 petition "as not in [E.'s] best interest at this stage."

Social worker Jonah Anguka and mother testified at the hearing.

1. Testimony of Jonah Anguka

Social worker Anguka was assigned to mother's case for approximately two years. He was aware mother was receiving reunification services in her San Diego dependency case. Her case plan included drug treatment, testing and parenting.

The social worker testified that the issues that brought mother and E. to the dependency court "were related to substance abuse as well as mental health issues."

The social worker observed E. and mother together. Mother always appeared appropriate in her interactions with E. The two would hug each other at the beginning of visits. Mother was appropriate during visitations, which occurred once a month for one hour. No telephone contact occurred while E. was in the current placement. The social worker testified that the bond between E. and mother could be described as a "medium" bond.

Mother also testified. She stated that she visited once a month, but she previously visited once a week. She stated that she was consistent with attending visits. Mother would bring a book and clothes for E., and they would do some type of arts and crafts. Mother would also read to E. When visitation ended, E. appeared to be okay. Mother testified that she and E. had "an extremely good bond."

After hearing the testimony of the social worker and mother, the court denied mother's section 388 petition. Mother argued that the benefit exception to adoption, under section 366.26, subdivision (c)(1)(B)(i), was applicable. The court, however, disagreed and proceeded to terminate parental rights.

On April 18, 2014, mother filed a notice of appeal.

III

ANALYSIS

The Trial Court Properly Terminated Mother's Parental Rights

Mother contends that the order terminating her parental rights should be reversed because the exception to the termination of parental rights under section 366.26, subdivision (c)(1)(B)(i), applied.

“By the time dependency proceedings have reached the stage of a section 366.26 hearing, there have been multiple specific findings of parental unfitness.” (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 253, superseded by statute on other grounds as stated in *Cesar v. Superior Court* (2001) 91 Cal.App.4th 1023.) As our state Supreme Court has explained, “[i]t is not the purpose of the section 366.26 hearing to show parental inadequacy, which had to have been previously established, and there is no burden on the petitioning agency to show at the section 366.26 hearing that the parents are ‘at fault.’” (*Cynthia D.*, at p. 254.)

At the section 366.26 hearing, the sole issue “‘is whether there is clear and convincing evidence that the child is adoptable.’ [Citations.]” (*In re Josue G.* (2003) 106 Cal.App.4th 725, 733; see § 366.26, subd. (c).) “Adoption, where possible, is the

permanent plan preferred by the Legislature.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.)

If the court finds that a child may not be returned to his or her parents and is likely to be adopted, it must select adoption as the permanent plan, unless it finds that termination of parental rights would be detrimental to the child under one of the seven exceptions set forth in section 366.26, subdivisions (c)(1)(A) and (c)(1)(B)(i) through (v). (See *In re Jamie R.* (2001) 90 Cal.App.4th 766, 773.)

The parental benefit or “beneficial relationship” exception is set forth in section 366.26, subdivision (c)(1)(B)(i). The exception applies where “[t]he parents . . . have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 826.) The parent has the burden of proving that the exception applies. (*Id.* at p. 826.) “The parent must do more than demonstrate ‘frequent and loving contact[,]’ [citation] an emotional bond with the child, or that parent and child find their visits pleasant. [Citation.] Instead, the parent must show that he or she occupies a ‘parental role’ in the child’s life.” (*Id.* at p. 827.) In other words, for the exception to apply, the emotional attachment between the child and parent must be that of parent and child rather than one of being a friendly visitor or friendly nonparent relative, such as an aunt. [Citation.]” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 468.)

The parent must also show that his or her relationship with the child “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances

the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated.’ [Citation.]” (*In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.)

“... ‘The balancing of competing considerations must be performed on a case-by-case basis and take into account many variables, including the age of the child, the portion of the child’s life spent in the parent’s custody, the “positive” or “negative” effect of interaction between parent and child, and the child’s particular needs. [Citation.]’ When the benefits from a stable and permanent home provided by adoption outweigh the benefits from a continued parent/child relationship, the court should order adoption.’ [Citation.]” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1349-1350.) There must be a “compelling reason” for applying the parental benefit exception. (*Id.* at p. 1349.)

We note that courts have reached different conclusions as to the standard of review that applies to a juvenile court’s ruling on exceptions to adoptability under section 366.26, subdivision (c)(1). In *In re Autumn H.*, *supra*, 27 Cal.App.4th 567, the court held that a finding that no exceptional circumstances exist to prevent the termination of parental rights is reviewed under the substantial evidence test. (*Id.* at pp. 575-576.) In contrast, in *Jasmine D.*, the court applied the abuse of discretion standard of review. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at pp. 1351-1352.) For purposes of the present

case, it makes no difference which standard applies because the juvenile court did not err under either test.

In this case, there is no dispute that mother visited with E. on a weekly basis in the beginning of the dependency proceedings. Visitations were supervised and went well. Beginning in April 2013, mother was unable to visit E. because of her work schedule. Visitation subsequently occurred on a monthly basis; they were supervised by the caregivers. The visits reportedly went well, and mother acted appropriately. We agree with mother's statement that her "contacts with [E.] were consistently positive in nature[,]" and "[t]heir visits went 'well' and mother and child appeared to 'enjoy their time together.'"

On August 18, 2013, the caregiver informed the department that E. acted out sexually after a visit with mother. It was the caregiver's opinion that E.'s sexual acting out was triggered by visits with mother.

Visitation occurred on a monthly basis until September 2013. E. was placed in a foster home in Riverside, and then a prospective adoptive home while mother remained in San Diego. These changes caused some logistical issues regarding scheduling of visitations.

On November 4, 2013, mother and E. had a visitation. E. acted like a baby by pointing at things she wanted instead of asking for them. She also did not want to leave the caregiver's side during the visit. E. wet her bed at night after the visit.

A visit was scheduled for February 21, 2014. Mother, however, failed to attend the visit because she missed her train from San Diego. The visit was rescheduled to March 7, 2014.

E. was bonded to her prospective adoptive family. She was “a happy, well adjusted, and well cared for child.” She was thriving in the prospective adoptive parents’ home. E. told the social worker that she loved her new home and parents, and that she wanted to stay with them forever. E. was doing “extremely well” in the prospective adoptive home, and had developed a strong bond with the family.

Mother claims that she built a strong parent-child bond with E. during the first three years of E.’s life when they lived together. In her reply brief, mother contends that the benefit exception should apply because “mother raised [E.] (aside from an eight day period immediately after the child’s birth) until she was three-years-old. Thus, the child spent the majority of her young life in mother’s case.” However, even if E. spent the first three years with mother, according to the record, when E. was taken into protective custody, E. stated that she did not want to see mother. Moreover, prior to the filing of the petition when E. was staying with Mr. and Mrs. F., E. did not want to visit with mother. Mrs. F. reported that there were several occasions where E. had stated that she did not want to see or talk with mother. E. did not want to go home with mother. The evidence establishes that E. and mother did not share a strong parent-child bond when the dependency began.

Although mother visited E. on a regular basis, all the visits were supervised; mother never spent time alone with E. Moreover, E. never went on overnight visits with

mother. Due to the limited contact between mother and E., and although mother was attentive and nurturing during her visits, it was reported as more of a friendly relationship than a parent/child relationship. To meet her burden under the benefit exception, mother had to demonstrate more than “frequent and loving contact” (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418), or that the parent and the child find their contact pleasant (*In re Elizabeth M.* (1997) 52 Cal.App.4th 318, 324). The parent has the burden to show that the benefit the child has with the parent outweighs the benefit the child would gain in a permanent home with an adoptive parent. (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108-1109.)

In this case, there was simply no evidence to show that mother occupied a parental role in E.’s life. E. is “entitled to stability and permanence through adoption. ‘Where a biological parent . . . is incapable of functioning in that role, the child should be given every opportunity to bond with an individual who will assume the role of a parent.’ [Citation.]” (*In re C.F.* (2011) 193 Cal.App.4th 549, 557.) Moreover, there was no evidence showing that E. would “suffer great detriment by terminating parental rights.” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 229.)

The juvenile court stated: “Mother has made effort to keep in contact, but the visits are monthly. . . . It appears they have a bond, that is clear to the Court; however, that bond needs to overcome the presumption for adoption. And since [E.] is adoptable, I’m not finding that it’s strong enough to overcome that presumption.”

Based on the above, we find that the juvenile court did not abuse its discretion and substantial evidence supported the court's finding that mother failed to show that the child would benefit from continuing the relationship.

IV

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RICHLI
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.